

Level B behavioral harassment only, *i.e.*, the exposure of received levels for impulse noise between 160 and 180 dB (rms) re 1 μ Pa (from impact pile driving) and for non-impulse noise between 120 and 180 dB (rms) re 1 μ Pa (from vibratory pile driving). In addition, the potential behavioral responses from exposed animals are expected to be localized and short in duration.

These low intensity, localized, and short-term noise exposures (*i.e.*, 160 dB re 1 μ Pa (rms) from impulse sources and 120 dB re 1 μ Pa (rms) from non-impulse sources), are expected to cause brief startle reactions or short-term behavioral modification by the animals. These brief reactions and behavioral changes are expected to disappear when the exposures cease. Therefore, these levels of received underwater construction noise from the proposed SF-OBB construction project are not expected to affect marine mammal annual rates of recruitment or survival. The average measured 160 dB isopleths from impact pile driving is 1,000 m from the pile, and the estimated 120 dB isopleths from vibratory pile driving is approximately 1,900 m from the pile.

For the reasons discussed in this document, NMFS has preliminarily determined that the impact of in-water pile driving associated with construction of the SF-OBB would result, at worst, in the Level B harassment of small numbers of California sea lions, Pacific harbor seals, harbor porpoises, and potentially gray whales that inhabit or visit SFB in general and the vicinity of the SF-OBB in particular. While behavioral modifications, including temporarily vacating the area around the construction site, may be made by these species to avoid the resultant visual and acoustic disturbance, the availability of alternate areas within SFB and haul-out sites (including pupping sites) and feeding areas within the Bay has led NMFS to preliminarily determine that this action will have a negligible impact on California sea lion, Pacific harbor seal, harbor porpoise, and gray whale populations along the California coast.

In addition, no take by Level A harassment (injury) or death is anticipated and harassment takes should be at the lowest level practicable due to incorporation of the mitigation measures mentioned previously in this document. The activity will not have an unmitigable adverse impact on subsistence uses of marine mammals described in MMPA section 101(a)(5)(D)(i)(II).

Impact on Availability of Affected Species for Taking for Subsistence Uses

There are no relevant subsistence uses of marine mammals implicated by this action.

National Environmental Policy Act (NEPA)

NMFS' prepared an Environmental Assessment (EA) for the take of marine mammals incidental to construction of the East Span of the SF-OBB and made a Finding of No Significant Impact (FONSI) on November 4, 2003. Due to the modification of part of the construction project and the mitigation measures, NMFS reviewed additional information from CALTRANS regarding empirical measurements of pile driving noises for the smaller temporary piles without an air bubble curtain system and the use of vibratory pile driving. NMFS prepared a Supplemental Environmental Assessment (SEA) and analyzed the potential impacts to marine mammals that would result from the modification of the action. A Finding of No Significant Impact (FONSI) was signed on August 5, 2009. A copy of the SEA and FONSI is available upon request (*see ADDRESSES*).

Endangered Species Act (ESA)

On October 30, 2001, NMFS completed consultation under section 7 of the ESA with the Federal Highway Administration (FHWA) on the CALTRANS' construction of a replacement bridge for the East Span of the SF-OBB in California. Anadromous salmonids are the only listed species which may be affected by the project. The finding contained in the Biological Opinion was that the proposed action at the East Span of the SF-OBB is not likely to jeopardize the continued existence of listed anadromous salmonids, or result in the destruction or adverse modification of designated critical habitat for these species. Listed marine mammals are not expected to be in the area of the action and thus would not be affected.

NMFS proposed issuance of an IHA to CALTRANS constitutes an agency action that authorizes an activity that may affect ESA-listed species and, therefore, is subject to section 7 of the ESA. There is no ESA-listed marine mammal species in the proposed action area, therefore, NMFS has determined that issuance of an IHA for this activity will have no effect on any listed marine mammal species.

Proposed Authorization

NMFS proposes to issue an IHA to CALTRANS for the potential harassment of small numbers of harbor

seals, California sea lions, harbor porpoises, and gray whales incidental to construction of a replacement bridge for the East Span of the San Francisco-Oakland Bay Bridge in California, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated. NMFS has preliminarily determined that the proposed activity would result in the harassment of only small numbers of harbor seals, California sea lions, harbor porpoises, and possibly gray whales and will have no more than a negligible impact on these marine mammal stocks.

Dated: December 7, 2010.

James H. Lecky,

*Director, Office of Protected Resources,
National Marine Fisheries Service.*

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CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act Meeting Notice

TIME AND DATE: Wednesday, December 15, 2010, 10 a.m.–12 Noon.

PLACE: Hearing Room 420, Bethesda Towers, 4330 East West Highway, Bethesda, Maryland.

STATUS: Commission Meeting—Open to the Public

Matter To Be Considered

Decisional Matter: Full-Sized and Non-Full-Sized Cribs—Final Rules.

A live webcast of the Meeting can be viewed at <http://www.cpsc.gov/webcast>. For a recorded message containing the latest agenda information, call (301) 504-7948.

CONTACT PERSON FOR MORE INFORMATION:

Todd A. Stevenson, Office of the Secretary, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814, (301) 504-7923.

Dated: December 7, 2010.

Todd A. Stevenson,
Secretary.

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CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act Meeting Notice

TIME AND DATE: Wednesday, December 15, 2010; 2 p.m.—3 p.m.

PLACE: Hearing Room 420, Bethesda Towers, 4330 East West Highway, Bethesda, Maryland.